

NEWS NOTES

of the Central Committee for Conscientious Objectors

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Betterson Conviction Reversed

Court Reviews C.O. Case Even Though Administrative Remedies Not Exhausted Government Denied Rehearing

The Ninth Circuit Court of Appeals, Los Angeles, recently denied the government's petition for a rehearing of the Betterson case. Jurval Neal Betterson, Pasadena, was denied a C.O. classification and was convicted of violating the draft law by the U.S. District Court in Kansas City, Mo. Judges Sanborn, Johnsen, and Van Oosterhout reversed the conviction.

The government petitioned for rehearing on the ground that Betterson was not entitled to a judicial review of his draft classification since he had failed to report for induction. The petition stated that "Having failed to report for induction he has failed to comply with all the administrative steps necessary to determine whether he was acceptable for military service and therefore is not entitled to a judicial review of his classification to determine if his classification had a basis in fact."

The question of exhaustion of administrative remedies was not raised at either the trial or the appeal. The fact was noted, however, in the Circuit Court's decision.

For several years the courts have accepted the government's position that administrative remedies have not been exhausted until the C.O. reported to the place of induction when ordered by the draft board. The Betterson decision, unless reversed by the Supreme Court, may indicate that the courts may be more willing to review meritorious defenses where the C.O. refuses to report to the induction station.

No Basis in Fact

In reviewing Betterson's conviction the Circuit Court could find no basis in fact for Selective Service's refusal to grant a C.O. classification. Betterson, a member of the Radio Church of God, claimed exemption as a religious objector. The Hearing Officer admitted that the defendant was sincere in his claim, but advised that Betterson was "still somewhat immature in his thinking, and that he has not established satisfactorily that the religious beliefs on which he bases his claim to exemption are firm and unalterable convictions . . ." The defendant had stated to the Hearing Officer that he had not completely read the Bible and that he could conceivably change his mind about his C.O. convictions.

The appeal court followed the Supreme Court's ruling in the Dickensen case, that mere disbelief of selective service authorities is not enough to justify their rejection of a C.O. claim; there must be some affirmative evidence to support the rejection.

School Board Censured

The West Branch, Iowa school board was censured recently by the Iowa Governor's Commission on Human Relations for forcing the resignation of Don Laughlin, from the teaching staff of the village high school.

Laughlin, a Quaker, registered as a C.O. in World War II and served in civilian public service for two years. He refused to register for the peace-time draft enacted in 1948. He served six months in a federal prison.

The school board hired Laughlin in May, 1958 to teach science and mathematics. The board was fully aware of his C.O. position. Laughlin had taught for several years in the nearby Friends Boarding School.

Donald Johnson, West Branch business man, former state American Legion commander, and member of the Governor's Commission, appeared at a school board meeting accompanied by the local Legion post commander, to protest the hiring of Laughlin. Johnson argued that Laughlin's willingness to disobey the law made him unfit to teach in the public schools. At a second meeting of the board, the members voted 3 to 2 "no confidence" in Laughlin who then voluntarily surrendered his contract.

The six-page summary of the Governor's Commission declared that "there exists evidence of discrimination against a person who was sentenced to a federal penitentiary for failure to register . . . according to his personal religious convictions, and who served his sentence and returned to society." The report declared that "no man should be punished twice, whether legally or socially."

In a statement prepared for the Governor's Commission, Johnson stated that he had suggested several possible courses of action to the school board: revocation of Laughlin's certification; cancel his contract, honor the contract for the current year; or voluntary resignation. Johnson told the Commission that he had strongly recommended that Laughlin's contract be honored for 1958-1959 only. "At no time did I ask for immediate discharge," Johnson declared.

However, the fact-finding committee of the Commission which investigated the incident reported that Johnson did not stress or recommend one of his proposals over any of the other three. The Commission censured the school board for yielding to excessive pressure and depriving Laughlin of his rights.

The Governor's Commission also censured Don Johnson in a near-unanimous vote. It declared that Johnson's actions and methods in bringing excessive pressure to bear upon the school board "were unbefitting a member of the commission." It voted to remove Johnson from its executive council.

New C.O. Pamphlet Published

The Conscientious Objector and R.O.T.C., a 12-page pamphlet has just been published by CCCO. The pamphlet was prepared especially for the young man confronted with the question of participation in R.O.T.C. It will also be helpful to the college student who becomes a C.O. while taking military training. All too often young men preparing to enter college are confronted with the assumption that they must take R.O.T.C. This pamphlet will answer many of the questions posed by these men.

The introduction to the pamphlet states that participation in R.O.T.C. is inconsistent with conscientious objection to war and preparation for war. The C.O. is advised that participation in R.O.T.C. (even under compulsion, will affect his request for a C.O. claim under the draft law.

Many colleges which exempt C.O.'s do not have simple, established procedures to be followed in applying for exemption. The pamphlet suggests specific steps which should be taken by the C.O. to secure exemption.

Also included is a list of over 100 colleges and universities known to exempt C.O.'s from R.O.T.C. A list of institutions which do not exempt C.O.'s is also given.

CCCO plans to distribute the pamphlet widely among youth organizations and youth counselors. Single copies or bulk orders will be sent without charge upon request.

Gets Dishonorable Discharge

Marine Pvt. Peter Green was released from confinement on December 31 after serving six months of a two-year sentence imposed by a Navy courtmartial last year. Green was promptly discharged from the Marine Corps with a bad-conduct discharge. Green is appealing to the Military Court of Appeals.

After volunteering for duty in the Marine Corps Peter Green became a conscientious objector. His request for assignment to noncombatant duty was denied. He refused to obey an order to carry a rifle.

The 19-year-old Evanston, Illinois C.O. was found guilty before a courtmartial of bringing discredit on the Marine Corps, of being disrespectful to an officer, and of wrongful possession of an identification card. A Navy board of review dropped the latter charge and recommended the reduction of sentence to six months.

Green's request for recognition as a C.O. has had the support of several leaders in the Methodist church of which he is a member.

There is no escape from the impending doom save through a bold unconditional acceptance of the non-violent method. Democracy and violence go ill together. The States that today are nominally democratic will either have to become frankly totalitarian or, if they are to become truly democratic, they must become courageously non-violent. **Mahatma Gandhi.**

Are We Tired of Freedom?

(Editorial)

In Madison's (Wisconsin) West High School recently all senior boys were required to attend a military services program. A Selective Service colonel spoke to the students about the draft law and opportunities for service. He interrupted his speech with a one-sentence statement about C.O. provisions. Then the students were encouraged to join buzz sessions led by eight military officers. Volunteer for one of the military programs or face the threat of being drafted later. Is this what democracy means today in America?

Two Quaker students asked the principal of West High to include a presentation of the C.O. provisions of the draft law. The request was refused. The principal said he could not promote conscientious objection in the schools. Frances Hole, a respected Quaker in Madison, offered to present the C.O. position to the seniors. The principal declined.

Perversion of our schools for the promotion of militarism is not an isolated incident. It is occurring in hundreds of American communities. Educators feel powerless to resist the relentless pressures of the military. In the name of democracy they are aiding its destruction.

Two world wars and almost twenty years of conscription have changed American ideas. Remember when we Americans rejected conscription—the church, labor, educators? Today, there is little opposition to extension of the draft. Only the historic peace churches and a handful of the "unreconstructed" refuse to go along.

We must choose democracy or militarism. The two don't mix. Are we tired of freedom?

George Willoughby

Tax Refuser Gets Six Months

Maurice F. McCrackin, Cincinnati pacifist and tax refuser, was sentenced December 12 to six months imprisonment and a fine of \$250 by U.S. District Court Judge John H. Druffel. The Cincinnati pastor was found guilty of "neglecting to appear and testify and to produce books, records and memoranda" relating to his income for 1955 and 1956.

In sentencing McCrackin, Judge Druffel charged that the Fellowship of Reconciliation and Peacemakers, organizations to which McCrackin made contributions, are "notorious and have overwhelming Soviet sympathies." Throughout the trial McCrackin refused to speak or participate in his defense. He would not consult with the two lawyers appointed by the court.

McCrackin has been transferred to the Federal Prison Camp at Allenwood, Pa. Friends and supporters continue a picket line in front of the Federal Building in Cincinnati.

Ask UN to Recognize C.O.'s

A new appeal has been made to the United Nations for the inclusion of a clause on the rights of conscientious objection in the Charter on Human Rights. Dorothy Day and A. J. Muste presented the request to Charles A. Hogan of the UN Secretariat on Prisoners for Peace Day, December 1. Norman Thomas, unable to accompany the delegation, submitted a letter in support of the petition. The delegation was assured that their request would be referred to the governments concerned.

The letter submitted by Muste and Day stated that "Though we personally share the convictions of these men, our plea is based on the ground that the civil liberties of human beings are curtailed and violated at a crucial point, if in so grave a matter as participation in war the individual is compelled to submit his judgment and conscience unconditionally to a decree of the state. Coercion of conscience cannot be in the interest of society and cannot contribute to the coming of peace for which the world longs and which the United Nations was founded to promote."

The letter pointed out that many countries do not recognize conscience objection, while others grant only limited recognition. As a result, C.O.'s are currently imprisoned in Belgium, France, Great Britain, Italy, Denmark, Sweden, Norway, and the United States.

C.O. Wins Teacher Certificate

California Superior Court for Sacramento County directed the California Board of Education to issue a teacher certificate to Arthur P. Clark, Los Angeles C.O.

The Credentials Commission of the Education Board had denied Clark's application for certification on grounds of his conviction of a draft violation in 1954 which the Commission viewed as evidence of moral turpitude. Clark, a member of the Unitarian Church, was denied a C.O. classification because he did not claim belief in a Supreme Being. He was given a four-year prison term.

In ordering certification, Superior Court Judge Jay L. Henry ruled that a draft law violation "does not in every case evidence a bad moral character. Moral turpitude is not inherent in the crime itself."

The favorable decision in the Clark case should be helpful to other C.O.'s in a similar predicament.

Tamarkin Loses Appeal

The Fifth Circuit Court of Appeals recently upheld the conviction of Marvin Tamarkin, Miami C.O., who had been sentenced to 12 months imprisonment by the U.S. District Court in Miami, Florida. The appeal court upheld the lower court's decision that Tamarkin's objection to war was not based upon religious training and belief.

Tamarkin is a vegetarian and a C.O. The court held that Tamarkin's vegetarian beliefs were philosophical in nature even though Tamarkin claimed belief in a Supreme Being.

The Circuit Court denied a petition for rehearing. Leonard E. Abel, attorney for Tamarkin, filed a petition for certiorari with the U.S. Supreme Court, January 15. Tamarkin remains free on \$1,000 bond.

Briefly Noted

Alternatives, a 24-minute, 16 mm. sound film depicting the C.O. provisions of the draft law has just been released for showing to high school assemblies, church youth groups, and other young peoples groups. The film deals mainly with the I-O position and opportunities for service open to those C.O.'s who elect to do civilian work. Brief mention is made of the I-A-O and the non-registrant positions. Film actor Don Murray is narrator.

The film was produced in cooperation with many church related agencies. A promotional flier is being prepared. The film may be rented for \$7.50 per showing or \$20 a week. Further information can be secured from the National Service Board, 401 Third St., N.W., Washington 1, D.C.

* * *

The State Department's Board of Review on the Loss of Nationality has agreed to review the expatriation of Lawrence Osborn, the Quaker C.O. who left the United States several years ago. Osborn, who refused to register for the draft, has been living with his wife and family in the Quaker settlement in Costa Rica. When he returns to the U.S. he faces prosecution for failure to register.

* * *

Ted Olson, leader of the Cheyenne anti-missile base project, was released from Laramie County (Wyo.) jail December 23. He was jailed for 127 days. Olson was the last of six pacifists who were jailed for interfering with construction of the missile base.

Lt. Roark Refused Discharge

Military authorities continue to refuse to grant 2nd Lt. Richard P. Roark's application for honorable discharge on grounds of conscience. Roark, an ROTC graduate, was assigned to the Military Intelligence Unit at Ft. Holabird, Maryland in November for six months active duty. A few days after arriving at the post Roark informed his commanding officer that he could no longer conscientiously perform any military duty.

He was charged with refusing to obey a lawful command and with conduct unbecoming an officer. A pre-trial hearing was held, but no date has been fixed for the courtmartial proceedings.

Second Army Headquarters has recommended that Lt. Roark's tendered unqualified resignation not be accepted. They also recommended that Roark be ordered to stand trial by general courtmartial unless he is willing to resign for the good of the service. Lt. Roark has refused to resign under such circumstances.

The Army is opposed to granting honorable discharges to officers who become conscientious objectors. They view honorable discharges in such instances as a dangerous precedent to the entire ROTC program.

Lt. Roark has refused to accept his Army pay and will no longer wear the uniform. Courtmartial charges have been filed. He is confined to the post by orders of his commander. He is not, however, denied visitors.

Roark's application for honorable discharge is now in the Adjutant General's office in Washington, D.C. for review. Oliver Stone of that city is civilian counsel for Roark.

Ten Reasons For Opposing Conscription

1. Conscription is a necessary tool for carrying on modern warfare, and has no purpose apart from war preparation or actual war.
2. Conscription violates the right and responsibility of the individual to determine his own vocation.
3. Conscription is an important element in the growth and perpetuation of militarism in this country.
4. Conscription is an important element in the psychological conditioning of our entire society to such fallacious, dangerous, and immoral conclusions as "war is inevitable"; "war power is peace power"; "atomic war has victors"; and "God is on the side of the largest battalions."
5. A good many of the evils of conscription are not evils of conscription per se, but evils of duty in the Armed Forces. This is compounded when conscription forces it upon men who would not otherwise choose it. Such evils include those mentioned in 3 and 4, plus the immorality of being trained physically and psychologically to kill, the autocratic relationship of individuals within the military structure, the totalitarian nature of the military life, and the general immorality by religious standards of "life in the barracks."
6. Conscription is a misappropriation of manpower and money which should be used for creative purposes.
7. Conscription is a disruptive factor in the lives of young men which frequently affects their careers, education, and marriage. This, of course, causes disruptive factors in the lives of young women, and sometimes in the lives of parents or others.
8. Conscription violates the religious beliefs of many citizens irrespective of the language or exemptions of the particular law.
9. Conscription is undemocratic because it subjugates all rights and principles of the citizen to the war-making power of the state.
10. By tending to force upon all men a period of similar training and experience, conscription intensifies the trend to conformity of thought and action.

Lyle Tatum

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THE COURT REPORTER

I PROSECUTIONS

Sentences

(None reported since last issue)

Appeals

- 10-9-58 Bill William Prohoroff, conviction upheld, 9th Circuit Court of Appeals
- 11-3-58 Jurval Neal Batterson, conviction reversed, 9th Circuit Court of Appeals
- 11-5-58 Marvin Tamarkin, conviction affirmed, 5th Circuit Court of Appeals

II RELEASED FROM PRISON

On Parole

- 12-16-58 Robert Smith

III MEN CURRENTLY IMPRISONED

- Allenwood, Pa.—Jonas W. Nolt
- Danbury, Conn.—Daniel Stauffer
- Englewood, Colo.—Johnny Freedom

Total number of C.O.'s convicted since 1948 to date, 339. (This is a minimum number; J.W.'s and Muslims are not included, and we miss a few.)

Urges Draft Law Extension

The Defense Department has asked Congress to extend the Universal Military Training and Service Act for another four-year period. Defense Secretary Neil H. McElroy, in a letter to Speaker Sam Rayburn of the House of Representatives, declared that the extension of the draft is "absolutely imperative to the security of the nation at this time and for the foreseeable future."

Representative Carl Vinson, chairman of the House Armed Services Committee, has introduced a bill to extend the authority of Selective Service to induct men for another four years, beginning July 1.

Hearings are scheduled for early February. However, the request for extension is expected to pass Congress with little opposition.

Congressman Emanuel Celler is expected to introduce a bill to end the draft.

No changes in the C.O. provisions of the law are expected.

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